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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120309176-2075-02]

RIN 0648-XC133

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
South Atlantic Snapper-Grouper Fishery; 2012-2013 Accountability
Measure and Closure for Recreational Black Sea Bass in the South
Atlantic

AGENCY: National Marine Fisheries Service (NMFS), National
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) for the
black sea bass recreational sector in the South Atlantic for the
2012-2013 fishing year through this temporary final rule. NMFS
has determined that the annual catch limit (ACL) for the black
sea bass recreational sector has been reached. Therefore, NMFS
closes the recreational sector of black sea bass in the portion
of the exclusive economic zone (EEZ) of the South Atlantic
through 35°15.19' N. lat., the latitude of Cape Hatteras Light,
North Carolina. This closure is necessary to protect the black
sea bass resource.

DATES: This rule is effective 12:01 a.m., local time, September 4, 2012, through May 31, 2013.

FOR FURTHER INFORMATION CONTACT: Catherine Hayslip, telephone: 727-824-5305, or e-mail: Catherine.Hayslip@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP includes black sea bass, and it was prepared by the South Atlantic Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Background

Black sea bass are managed throughout their range. In the South Atlantic EEZ, black sea bass are managed under the FMP by the Council from 35°15.19' N. lat., the latitude of Cape Hatteras Light, North Carolina, south to the boundary between the South Atlantic and Gulf of Mexico (Gulf) Councils, off of Key West, Florida. The boundary between the South Atlantic and Gulf Councils coincides with the line of demarcation between the Atlantic Ocean and the Gulf, which begins at the intersection of the outer boundary of the EEZ, as specified in the Magnuson-Stevens Act, and 83°00' W. long., proceeds northward along that

meridian to 24°35' N. lat., (near the Dry Tortugas Islands), thence eastward along that parallel, through Rebecca Shoal and the Quicksand Shoal, to the Marquesas Keys, and then through the Florida Keys to the mainland at the eastern end of Florida Bay, the line so running that the narrow waters within the Dry Tortugas Islands, the Marquesas Keys and the Florida Keys, and between the Florida Keys and the mainland, are within the Gulf. From Cape Hatteras Light, North Carolina, through Maine, black sea bass are managed jointly by the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission. Therefore, the closure provisions contained in this notice are applicable to those vessels harvesting or possessing black sea bass from Cape Hatteras Light, North Carolina, through to the boundary between the South Atlantic and Gulf Councils (off of Key West, Florida), as described above.

The 2006 reauthorization of the Magnuson-Stevens Act established new requirements that ACLs and AMs be implemented to end overfishing and prevent overfishing from occurring. AMs are management controls to prevent ACLs from being exceeded, and to correct or mitigate the ACL if an overage occurs.

On December 30, 2010, NMFS issued a final rule (75 FR 82280) to implement Amendment 17B to the FMP (Amendment 17B). The final rule for Amendment 17B established ACLs for eight snapper-grouper

species in the FMP that are undergoing overfishing, including black sea bass, and AMs if these ACLs are reached or exceeded. The recreational ACL for black sea bass is 409,000 lb (185,519 kg), gutted weight.

On June 1, 2012, NMFS issued a final rule (77 FR 32408) to implement Amendment 18A to the FMP (Amendment 18A). In part, the final rule for Amendment 18A modified the recreational sector AMs for black sea bass. The AMs described at 50 CFR 622.49(b)(5)(ii) require NMFS to close the recreational sector for black sea bass when the recreational ACL is reached, or is projected to be reached by filing a notification to that effect with the Office of the Federal Register. Based on the best scientific information available, NMFS has determined that the black sea bass recreational ACL of 409,000 lb (185,519 kg), gutted weight; 482,620 lb (218,913 kg), round weight, has been reached. Accordingly, NMFS is implementing the necessary AM to close the black sea bass recreational sector in the South Atlantic EEZ at 12:01 a.m., local time, on September 4, 2012, for the remainder of the 2012-2013 fishing year, from 35°15.19' N. lat., the latitude of Cape Hatteras Light, North Carolina, south to the boundary between the South Atlantic and Gulf Councils, as previously described in this temporary rule.

On, and after, the effective date of the closure, the

recreational bag and possession limit of black sea bass in or from the South Atlantic EEZ is zero. This zero bag and possession limit also applies in the South Atlantic on board a vessel for which a valid Federal charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, i.e., in state or Federal waters. The black sea bass recreational sector will reopen on June 1, 2013, the start of the 2013-2014 recreational fishing season.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of the South Atlantic black sea bass component of the South Atlantic snapper-grouper fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

The temporary rule has been determined to be not significant for purposes of Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because this temporary rule is issued without opportunity for prior notice and comment.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule. Such procedures are

unnecessary because the AMs established by Amendment 18A and located at 50 CFR 622.49(b)(5)(ii) have already been subject to notice and comment and authorize the Assistant Administrator for Fisheries, NOAA, (AA) to file a notification with the Office of the Federal Register to close the recreational sector for black sea bass for the remainder of the fishing year, if recreational landings for black sea bass, reach or are projected to reach the recreational sector ACL. All that remains is to notify the public of the closure of the recreational sector for black sea bass for the remainder of the 2012-2013 fishing year.

Additionally, there is a need to immediately notify the public of the closure of the black sea bass recreational sector because South Atlantic black sea bass are undergoing overfishing and there is a 10-year rebuilding plan in place. Failure to close the recreational harvest of black sea bass in a timely fashion could result in negative biological effects and affect the rebuilding plan for black sea bass within the timeline specified by the Magnuson-Stevens Act. The current ACL is projected to have been met at this time and the delay in effectiveness of the actual closure date is solely to allow for sufficient notice to the recreational sector, including private and for-hire fishers.

To allow for adequate notice to the fishers while

simultaneously protecting the black sea bass resource, this temporary rule provides notice to the public prior to the closure of recreational black sea bass to minimize disruption to the activities of the recreational sector. This notice will provide time to schedule and prepare for trips and to purchase the appropriate amount of supplies.

Therefore, the timing for this temporary rule is intended to maximize the biological benefits to the resource while attempting to minimize the negative economic harm to fishermen.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 et seq.

Dated: August 24, 2012

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